UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

February 23, 2009

Reply to
Attn. of: ECO-088

Ref: 08-061-NOA

Mr. Robert D. Mecum, Acting Administrator
Alaska Region, National Marine Fisheries Service
National Oceanic and Atmospheric Administration
P.O. Box 21668
Juneau, Alaska 99802-1668

Dear Mr. Mecum:

EPA has reviewed the Draft Environment Impact Statement (EIS) for the **Bering Sea Chinook Salmon Bycatch Management** (CEQ No. 20080484) in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Clean Air Act §309, which specifically directs EPA to review and comment in writing on the environmental impacts associated with all major federal actions. Under our policies and procedures, we assign a rating to the Draft EIS based on the environmental impacts of the proposed action and the documents adequacy in meeting NEPA requirements.

The Draft EIS evaluates management measures to minimize Bering Sea Chinook salmon bycatch, while achieving optimum yield from the Bering Sea Pollock fisheries, and serves as the decision document for the Northern Pacific Fishery Management Council to recommend an amendment to the *Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area*.

The Draft EIS compares the No Action (Alternative 1) with three action alternatives for minimizing the Bering Sea Chinook salmon bycatch. Alternative 2 (Hard Cap) would establish separate Chinook salmon bycatch caps for the Pollock fishery A (January 20 to June 10) and B (June 10 to November 1) seasons, which when reached, would require all direct Pollock fishing to cease for the remainder of that season. Alternative 3 (Triggered Closures) would establish time and area closures that are triggered when specified cap levels are reached. Alternative 4 is the Preliminary Preferred Alternative (PPA). This alternative consists of two different annual scenarios with separate Chinook salmon bycatch caps for each Pollock fishing season, which when reached, would require all fishing to cease for the remainder of the season. This alternative also includes seasonal and sector allocations and provisions for transfers and rollovers. Annual scenario 1 (PPA1) contains a dual cap system, with a high cap of 68,392 Chinook salmon for vessels that participate in the NMFS approved salmon bycatch Inter-Cooperative Agreement (ICA) which provides explicit incentives to avoid Chinook salmon bycatch, and a "backstop" cap of 32,482 Chinook salmon for vessels that do not participate in the ICA. Annual scenario

2 (PPA2) contains a cap of 47,591 Chinook salmon and does not contain a provision for an ICA. Each cap would be apportioned seasonally 70 percent to the A season and 30 percent to the B season.

EPA has assigned a rating of "EC-2" (Environmental Concerns - Insufficient Information) to the Bering Sea Chinook Salmon Bycatch Management Draft EIS. Our rating is based on our concerns regarding monitoring and enforcement of the program, a need for analysis of climate change impacts, and the need to better document the Tribal consultation process. A copy of EPA's rating system criteria used in conducting our environmental review can be found at: http://www.epa.gov/Compliance/nepa/comments/ratings.html. This rating and a summary of our comments will be published in the *Federal Register*.

Thank you for the opportunity to review and provide written comments on the Bering Sea Chinook Salmon Bycatch Management Draft EIS. If you have any questions regarding this letter, please do not hesitate to contact Mark Jen of my staff at (907) 271-3411 or jen.mark@epa.gov.

Sincerely,

/s/
Christine Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosure

EPA Region 10 Comments
on the Bering Sea Chinook Salmon Bycatch Management
Draft Environmental Impact Statement

Considerations for the Preferred Alternative

The Draft EIS identifies Alternative 4 as the Preliminary Preferred Alternative (PPA). As proposed, Alternative 4 includes four components and a number of options under each component. The array of options and combinations are numerous. The final preferred alternative could include all components or a selection of a few components and options, which could be challenging to implement. We support the purpose and need for this action: to minimize Bering Sea Chinook salmon bycatch to the extent practicable, while achieving optimum yield from the Bering Sea Pollock fishery, which is necessary to maintain a healthy marine ecosystem, ensure long-term conservation and abundance of Chinook salmon, provide maximum benefit to fishermen and communities that depend on Chinook salmon and Pollock resources, and comply with the Magnuson-Stevens Act. Choosing specific aspects of the preferred alternative to best meet the purpose and need will be a challenge.

We recommend consideration of an adaptive management approach to determine which components and options of the PPA would best support the purpose and need for this action. The selection of the preferred alternative should be based on sound scientific research, field data, and modeling information. A phased approached over a specified timeframe/schedule may be an effective way to implement the preferred alternative based on an adaptive management framework.

Monitoring and Enforcement

The Draft EIS indicates that implementation of the Bering Sea Chinook Salmon Bycatch Management Program would require changes to federal regulations and National Marine Fisheries Service (NMFS) management practices. Depending on the components and options selected as the preferred alternative, these regulatory changes would include modifications to monitoring requirements, in season management, and enforcement responsibilities. The Catch Accounting System (CAS) would be more complex than the other alternatives because of the potential for two separate salmon bycatch caps. NMFS would have to differentiate between Inter-Cooperative Agreement (ICA) and non-ICA participants in order to properly account for Chinook salmon bycatch towards appropriate caps. NMFS would have to effectively monitor Chinook salmon bycatch allocation transfers between sectors and cooperatives, and rollovers between seasons.

We recommend that the Final EIS include a monitoring and enforcement implementation framework for NMFS to be able to efficiently and effectively manage, monitor, and enforce the preferred action for the Bering Sea Chinook Salmon Bycatch Management Program. In order to understand how monitoring and enforcement would be carried out, it would be helpful to have specific information in the framework, such as estimates for full time equivalents (FTEs), labor hours, and costs associated with implementation of

the program. In addition, the framework should identify the types of computer models, and assumptions that would be necessary to ensure that the accounting system accurately considers salmon allocations for rollovers and transfers.

Climate Change

The Intergovernmental Panel on Climate Change predicts that climate change will impact water resources, ecosystems, and coastlines, which may result in changes to fisheries resources. Due to the state of scientific knowledge, it is appropriate to consider climate change as a reasonable foreseeable impact on the Bering Sea Pollock fisheries and the management decisions regarding Bering Sea Chinook salmon bycatch.

We recommend that the Final EIS include a discussion of how climate change may have a direct, indirect and/or cumulative impact on the Bering Sea Pollock fisheries and the management decisions for Bering Sea Chinook Salmon bycatch. The Final EIS should discuss adaptive management measures that would be taken to address climate change conditions.

Tribal Consultation

In our review of the DEIS, we consider whether information in the document that discusses Tribal consultation and coordination is consistent with *Executive Order (E.O. 13175) Consultation and Coordination with Indian Tribal Governments*. We believe that additional information is needed.

We recommend that the Final EIS disclose the Tribal consultation and coordination process by providing a chronology with the dates and locations of meetings with tribal governments, results of the meetings, and a discussion of how the tribal governments' input was used to develop the EIS and the action alternatives. The Tribal Consultation process is an opportunity to gather traditional ecological knowledge (TEK) about local subsistence use and harvest of Chinook and Chum Salmon in Norton Sound, Kotzebue, Yukon and Kuskokwim Rivers, Bristol Bay, and Gulf of Alaska.

We also recommend that the National Marine Fisheries Service (NMFS) consider developing a Tribal Government-to-Government Consultation Plan to outline a framework for working effectively with tribal governments in setting the management direction for the Bering Sea Chinook Salmon Bycatch. A Tribal Government-to-Government Plan would be useful in determining the best timing for conducting the consultation meetings which will not conflict with Alaska Native subsistence seasons. We recommend that such a plan be developed in collaboration with interested tribal governments.